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5 **UNITED STATES DISTRICT COURT**

6 **FOR THE SOUTHERN DISTRICT OF NEW YORK**

7 ACTICON TECHNOLOGIES LLC, a ) Case No.: 07 CV 10987 (DC)  
8 limited liability company ) ECF Case  
9 Plaintiff, ) **COMPLAINT FOR PATENT INFRINGEMENT**  
10 vs. )  
11 AVID TECHNOLOGY, INC., )  
12 Defendant. )  
13 )  
14 )  
15 )  
16 )

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17 Plaintiff, Acticon Technologies LLC ("Acticon") complains against  
18 AVID TECHNOLOGY, INC., ("Defendant") as follows:

19 **THE PARTIES**

20 1. Acticon is a limited liability company organized and  
existing under the laws of the State of New York, with its principal  
22 place of business at Montebello Park, 75 Montebello Road, Suffern, New  
23 York 10901-3740.

2. On information and belief, Defendant Avid Technology, Inc., is a corporation organized and existing under the laws of the State of Massachusetts, having a place of business at Avid Technology Park, One Park West, Tewksbury, Massachusetts 01876.

## **JURISDICTION AND VENUE**

3. This action arises under the patent laws of the United States of America, Title 35 of the United States Code. This Court has jurisdiction of this action under 28 U.S.C. §§ 1331 and 1338(a).

4. On information and belief, Defendant is doing business and committing infringements in this judicial district and is subject to personal jurisdiction in this judicial district.

5. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391.

## **CLAIMS FOR PATENT INFRINGEMENT**

6. Plaintiff, Acticon, repeats and incorporates herein the entirety of the allegations contained in paragraphs 1 through 5 above.

7. On July 29, 1986, U.S. Patent No. 4,603,320 ("the '320 patent") was duly and legally issued for an invention entitled "Connector Interface." The '320 patent has successfully emerged from reexamination proceedings before the U.S. Patent and Trademark Office with all claims unamended. A copy of the '320 patent, and its reexamination certificate, is attached to this Complaint as Exhibit 1.

8. On November 20, 1990, U.S. Patent No. 4,972,470 ("the '470

1 patent") was duly and legally issued for an invention entitled  
2 "Programmable Connector." The '470 patent has successfully emerged  
3 from reexamination proceedings before the U.S. Patent and Trademark  
4 Office with all claims unamended. A copy of the '470 patent, and its  
5 reexamination certificate, is attached to this Complaint as Exhibit 2.

6 9. Acticon is the owner of all right, title and interest in  
7 and to the '320 patent and the '470 patent, and has the right to sue  
8 and collect damages for the past infringement thereof.

9 **COUNT ONE**

10 10. Plaintiff, Acticon, repeats and incorporates herein the  
11 entirety of the allegations contained in paragraphs 1 through 9 above.

12 11. Defendant has directly infringed and/or contributorily  
13 infringed and/or induced infringement of the '320 patent by importing,  
14 making, using, offering for sale, and/or selling, through its Pinnacle  
15 Systems Division, PC Cards (PCMCIA form factor devices) and a PCTV HD  
16 Pro Stick USB TV Tuner, as defined by the claims of the '320 patent,  
17 without permission from Action.

18 12. Plaintiff, Acticon, was damaged by the Defendant's  
19 infringing activities and seeks damages for said past infringement.

20 **COUNT TWO**

21 13. Plaintiff, Acticon, repeats and incorporates herein the  
22 entirety of the allegations contained in paragraphs 1 through 12  
23 above.

14. Defendant has directly infringed and/or contributorily infringed and/or induced infringement of the '470 patent by importing, making, using, offering for sale, and/or selling, through its Pinnacle Systems Division, PC Cards (PCMCIA form factor devices) and a PCTV HD Pro Stick USB TV Tuner, as defined by the claims of the '470 patent, without permission from Action.

15. Plaintiff, Acticon, has been damaged by Defendant's infringing activities, and will be irreparably harmed unless such infringing activities are enjoined by this Court.

COUNT THREE

16. Plaintiff, Acticon, repeats and incorporates herein the entirety of the allegations contained in paragraphs 1 through 15 above.

17. Defendant's infringement has been willful and deliberate, justifying the assessment of treble damages pursuant to 35 U.S.C. §284 and attorneys' fees pursuant to 35 U.S.C. §285.

## **PRAYER FOR RELIEF**

WHEREFORE, THE Plaintiff, Acticon prays for judgment against the Defendant on all counts and for the following relief:

A. Declaration that the Plaintiff is the owner of the '320 patent, and that the Plaintiff has the right to sue and to

B Declaration that the '320 patent was valid and enforceable;

1 C. Declaration that the Defendant has infringed, actively  
2 induced infringement of, and/or contributorily infringed  
3 the '320 patent;

4 D. Declaration that the Plaintiff is the owner of the '470  
5 patent, and that the Plaintiff has the right to sue and to  
6 recover for infringement thereof;

7 E. Declaration that the '470 patent is valid and enforceable;

8 F. Declaration that the Defendant has infringed, actively  
9 induced infringement of, and/or contributorily infringed  
10 the '470 patent;

11 G. An accounting for damages under 35 U.S.C. §284 for  
12 infringement of Acticon's '320 and '470 patents by the  
13 Defendant, and the award of damages so ascertained to the  
14 Plaintiff, Acticon, together with interest as provided by  
15 law;

16 H. A judgment that the Defendant is a willful infringer and an  
17 award of treble damages to the plaintiff, Acticon, pursuant  
18 to 35 U.S.C. §284 against the Defendant;

19 I. Award of reasonable attorney's fees to the Plaintiff,  
20 Action, pursuant to 35 U.S.C. §285;

21 J. Award of Action's costs and expenses; and

22 K. Such other and further relief as this Court may deem  
23 proper, just and equitable.

**DEMAND FOR JURY TRIAL**

The Plaintiff, Acticon, demands a trial by jury of all issues properly triable by jury in this action.

Dated this 3rd day of December, 2007

Respectfully submitted,

POLTORAK & ASSOCIATES, P.C.

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